

REMARKS

The present application currently has five (5) claims, with Claim 1 being an independent claim. All claims stand rejected.

35 U.S.C. § 112:

Claim 1 was objected to because “[t]he drawing shows the body does not have a height extending from the bottom to the neck.” Given that Fig. 1 shows the bottom 5 and the neck 2 as well as the axis 12, the Applicant request further clarification as far as what the Examiner considers to be missing from the drawings.

Claims 1-3 were rejected on the grounds that “the cross-sectional shape of the body rotates” is confusing. The Applicant requests clarification as to why this rejection is being reintroduced after it had been dropped in the last office action. In any event, the use of the cross-sectional shapes is amply described in the specification as well as in Figs. 2 and 3. Further, Paragraph [0028] states as follows:

Cross-section at the body is rotated around the center (12) of the circle circumscribed about the cross-section at the body, and in proportion to height. This feature achieves flowing outline together with improved resistance to horizontal load.

Likewise at Paragraph [0033]:

Cross sectional shape at the body was rotated uniformly at a rate of 0.4°/mm around the center, as axis, of circles circumscribed about said cross-sectional shape. Total rotation angle was 60 degrees.

The Applicant thus submits that the cross-sectional shape limitation is amply supported in the specification.

35 U.S.C. §103(a):

Claims 1-3 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Design Patent No. 168,932 to Frydlander in view of U.S. Patent No. 2,858,558 to Sudbeaz. Frydlander was described as teaching a bottle with cross-sectional shapes having the same shape and which rotate.

In response to the previous Office Action, the claim was amended to indicate that “the cross-sectional shapes of the body rotate symmetrically around said center axis in proportion to a height along said central axis from the bottom to the neck. In other words, the cross-sectional shapes rotate symmetrically and proportionally from the bottom to the top. This is in contrast to the bottle of Frydlander in which the rotation continues beyond the neck and into the removable cap. Specifically, the rotation is not symmetrical and not in proportion to the height. Specifically, the rotation is not finished at the neck.

In response, the current Office Action states at 4:

The new limitation only set forth the body being rotated and that is what is shown in Frydlander. Furthermore, it is noted that the shoulder in Frydlander is flat. Thus, the body of Frydlander rotates in proportion to a height along the central axis from the bottom to the neck as claimed.

The Applicant respectfully submits that Frydlander does not show such symmetric and proportional rotation. As is shown below, the bottle of Fig. 1 of Frydlander has completely symmetrical rotation from the bottom to the top. The bottle, however, has no neck.



Fig. 1.

The bottle of Fig. 2 does have a neck as is shown by the cap. The rotation, however, extends beyond the neck and into the cap before the bottom cross-section is again symmetrical with the top cross-section.

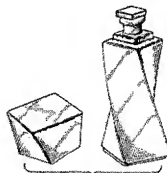


Fig. 2.

In other words, the rotation of a cross-section at the base and the rotation of a cross-section at the neck do not align, i.e., they are not symmetrical in proportion to the height as is specifically claimed herein. Rather, the rotation is cut off prematurely at the neck. Thus, the body of Frydlender does not rotate symmetrically in proportion to a height along the central axis from the bottom to the neck as is claimed herein. As such, claim 1, and the dependent claims thereon, are patentable over the cited references.

Claims 1-4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Frydlender in further view of U.S. Design Patent No. 520,374 to Herrmann, et al. or U.S. Design Patent No.

328,432 to O'Riley. The Applicant respectfully traverses the rejection for the reasons described above.

Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Frydlender in further view of U.S. Patent No. 5,928,742 to Sugiura. The Applicant respectfully traverses the rejection for the reasons described above.

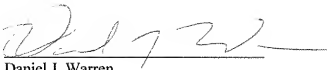
Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Frydlender in further view of U.S. Patent No. 5,238,129 to Ota or U.S. Design Patent No. 318,422 to Rumney. The Applicant respectfully traverses the rejection for the reason described above.

CONCLUSION

The Applicant believes that it has responded to each matter raised in the office action. Any questions may be directed to the undersigned at 404.853.8028.

Dated: Oct. 11, 2007

Respectfully submitted,


Daniel J. Warren
Reg. No. 34,272

SUTHERLAND ASBILL & BRENNAN LLP
999 Peachtree Street, N.E.
Atlanta, Georgia 30309-3996
(404) 853-8000
(404) 843-8806 (Facsimile)
daniel.warren@sablaw.com

SAB Docket No. 25040-1611